

Metropolitan Transportation Commission Programming and Allocations Committee

May 13, 2009

Item Number 2f

Proposed Amendment to the Regional Measure 2 Program

Subject: Notice to hold a public hearing on June 10, 2009 for a proposed amendment to the Regional Measure 2 Program.

Background: Regional Measure 2 (RM2), as passed by the voters in 2004, allows the redirection of RM2 funds to another project if a project has cost savings after completion, taking into account construction costs and future settlement of claims. Pursuant to Section 30914(f) of the California Streets and Highways Code, MTC must consult with the project sponsor and hold a public hearing prior to taking action.

In March 2009, the Commission approved Resolution 3885 which adopted the policy and programming for the American Recovery and Reinvestment Act (ARRA) Program. Resolution 3885 recommended directing \$70 million in ARRA funds towards the Oakland Airport Connector project (OAC) conditioned on the ability of BART to secure other funding commitments to fully fund the project. One of the funding commitments includes the reassignment of \$50 million in cost savings from the BART Tube Seismic Strengthening project to the OAC project.

On April 23, 2009, the BART board adopted a resolution confirming \$50 million in cost savings from the Tube Seismic Strengthening project and requesting MTC to reassign the savings to the OAC project. The \$50 million in cost savings consists of \$37 million in RM2 funds and \$13 million in Prop 1B Transit population based funds. (The \$13 million is part of the \$24 million in Prop 1B Transit population based funds which were assigned to the BART Tube Seismic Strengthening Project as part of Resolution 3801.) Therefore, consistent with Resolution 3885, staff is proposing to reassign \$37 million in RM2 savings from the BART Tube Seismic Strengthening Project to the Oakland Airport Connector project. Action to reassign the Prop 1B savings will be done separately pending completion of the public hearing process.

The staff proposal (summarized below) will be released for a public review and comment period on May 29, 2009. The 30-day public review period will close on June 29, 2009. A public hearing on the proposal will be held at the Programming and Allocations Committee meeting on June 10, 2009. The final proposal will be presented at the July 8, 2009, Programming and Allocations Committee meeting.

BART Tube Seismic Strengthening Project Amendment:

Proposed Action: Reassign \$37,199,000 million in savings, in RM2 funds, from the BART Tube Seismic Strengthening project to the Oakland Airport Connector project.

- Issues:** The ARRA (Resolution 3885) funding commitment was conditioned on BART securing full funding for the project by June 2009, including a contribution of \$71 million from BART (High Speed Rail, TIFIA, or private financing). The BART Board is expected to take action on the \$71 million commitment at their May 14 meeting, which occurs after MTC's Programming and Allocations Committee meeting but prior to the release of the public hearing notice. Should the BART board not take action committing \$71 million, the public hearing on redirection of funds will be cancelled.
- Recommendation:** MTC staff recommends the Committee authorize the release of the proposed amendment to the project in the Regional Measure 2 Program on May 29, 2009 for public review and comment, and authorize a public hearing to be held on June 10, 2009 during the Programming and Allocations Committee meeting.
- Attachment:** None.